



# San Diego City Attorney **MICHAEL J. AGUIRRE**

## **NEWS RELEASE**

**FOR IMMEDIATE RELEASE: July 10, 2006**

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### **PENSION CASE HEADED FOR JURY TRIAL AFTER JUDGE CITES FACTUAL DISPUTES**

**San Diego, CA:** Today Superior Court Judge Jeffrey B. Barton ruled there are, indeed, disputed facts regarding allegations that the City's massive pension debt was unlawfully contracted by City officials. As a result, the matter will require a jury's decision. While denying the City's Motion for Summary Judgment the Judge found that City Attorney Michael Aguirre had presented, "evidence (that) demonstrated the interrelationship and contingent nature of the benefit increases with the funding relief."

"We had hoped that our evidence was sufficient to convince the Judge he could decide this case on the facts we presented," said City Attorney Michael Aguirre. "This ruling ensures that these issues will be heard in an open forum and decided by the citizens of San Diego. Hundreds of millions of dollars are connected to these alleged illegal pension benefits."

Judge Jeffrey B. Barton also over-ruled the motion by the San Diego City Employees' Retirement System (SDCERS) to dismiss City Attorney Michael Aguirre's complaint requesting that illegal pension benefits granted in 1996 and 2002 be rescinded. The Judge stated that there are sufficient allegations entitling the City to a jury trial.

On March 16, 2006, the City Attorney's Office filed the Motion for Summary Judgment and asked the Court to review compelling evidence proving that certain pension benefits, granted by City Officials between 1996 and 2002, violate California's conflict-of-interest and liability limit laws and should be set aside.

According to Aguirre, a Superior Court Judge had already ruled in the District Attorney's criminal case that there was enough evidence to go to trial on these violations based on California's conflict of interest laws.

The following court action was sought based on violations of California Government Code section 1090's conflict of interest laws; the California Constitution Article XVI, section 18, which requires a City to seek approval of voters before creating certain financial liabilities; and the San Diego City Charter's section 99 Liability Limit Law, which establishes the "pay as you go" principle as a cardinal rule of municipal finance:

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- A. Rescind new pension benefits that were granted under the 1996 Manager's Proposal I, which include an increase in the retirement factor used to determine retirement benefits; purchase of service credits up to five years which were purchased below market value; and the Deferred Retirement Option Plan (DROP) that allowed a member to "retire" from the City and begin earning his or her retirement benefits while remaining employed by the City.
- B. Rescind new pension benefits that were granted under the 2002 Manager's Proposal II, which increased pension benefits without a funding source; and created the so-called "Presidential Benefit" whereby Presidents of the City's four recognized labor unions could have their Union Presidents earnings counted as though they were City salaries for the purposes of retirement.

The jury trial is set for the fall.

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